



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Docket No. 13782US03)

In the Application of:

Elzur, et al.

Serial No.: 10/652,267

Filed: August 29, 2003

For: SYSTEM AND METHOD FOR TCP  
OFFLOAD

Art Unit: 2143

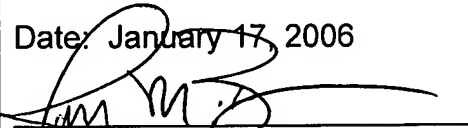
Examiner: Avellino, Joseph E.

Confirmation No. 1986

**CERTIFICATE OF MAILING**

I hereby certify that on the date indicated below this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: January 17, 2006

  
Joseph M. Butscher  
Reg. No. 48,326

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

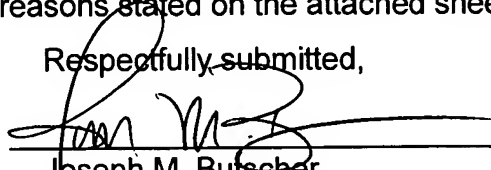
The Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reasons stated on the attached sheets

Respectfully submitted,

Date: January 17, 2006

By:   
Joseph M. Butscher  
Reg. No. 48,326  
Attorney for Applicants

McANDREWS, HELD & MALLOY, LTD.  
500 West Madison Street, 34th Floor  
Chicago, Illinois 60661  
Telephone: (312) 775-8000  
Facsimile: (312) 775 - 8100

## REMARKS

The present application includes pending claims 1-33, all of which remain rejected. The Applicants respectfully submit that the claims define patentable subject matter.

Claims 1-5, and 7-33 remain rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 6,757,746 ("Boucher"). Claim 6 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Boucher. The Applicants respectfully traverse these rejections at least for the following reasons:

### **I. Boucher Does Not Anticipate Claims 1-5, And 7-33**

Boucher does not teach or suggest "processing occurring [by a TEEC] without reassembly," as recited in the claims of the present application. See September 15, 2005 Amendment Under 37 C.F.R. 1.111 at pages 12-13, and November 22, 2005 Response Under 37 C.F.R. 1.116 at pages 9-12. Moreover, the Office Action seemingly improperly imports portions of the specification into the claims. See October 7, 2005 Office Action at page 6, and Response Under 37 C.F.R. 1.116 at pages 9-10.

Additionally, Boucher does not teach or suggest a "TEEC including at least one internal elastic buffer, wherein the TEEC processes an incoming TCP packet once and temporarily buffers at least a portion of said incoming TCP packet in said internal elastic buffer," as recited in claim 1, for example. See September 15, 2005 Amendment Under 37 C.F.R. 1.111 at page 14, and November 22, 2005 Response Under 37 C.F.R. 1.116 at pages 12-14.

Thus, the Office Action has failed to establish a *prima facie* case of anticipation with respect to claims 1-5, and 7-33 at least for these reasons.

### **II. Inherency**

The Applicants respectfully submit that the Office Action does not contain a basis in fact and/or technical reasoning to support the rejection of claim 9 based on inherency. See September 15, 2005 Amendment Under 37 C.F.R. 1.111 at pages 14-16, and November 22, 2005 Response Under 37 C.F.R.

1.116 at pages 14-17. Thus, the Office Action has failed to establish a *prima facie* case of anticipation with respect to claim 9, at least for this reason.

**III. Boucher Does Not Render Claim 6 Unpatentable**

Initially, claim 6 should be in condition for allowance at least for the reasons discussed above with respect to claim 1. Further, the Applicants continue to traverse the assertion of Official Notice set forth in the Office Action. See September 15, 2005 Amendment Under 37 C.F.R. 1.111 at pages 16-18, and November 22, 2005 Response Under 37 C.F.R. 1.116 at pages 17-19. The Office Action clearly has not satisfied its burden of proof with respect to its assertion of Official Notice. See *id.* That is, the Office Action has not provided a reference(s) in support of its assertion of Official Notice with respect to claim 6 (i.e., "only said at least one internal elastic buffer [is utilized] to temporarily buffer said at least a portion of said incoming TCP packet"). See *id.* Thus, the Applicants respectfully submit that the Office Action has not established a *prima facie* case of obviousness with respect to claim 6.

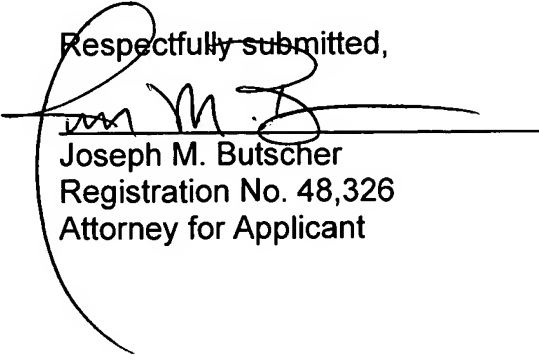
**IV. Conclusion**

The Applicants respectfully submit that the claims of the present application should be in condition for allowance at least for the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: January 17, 2006

MCANDREWS, HELD & MALLOY, LTD.  
500 West Madison Street, 34th Floor  
Chicago, Illinois 60661  
Telephone: (312) 775-8000  
Facsimile: (312) 775-8100

Respectfully submitted,

  
Joseph M. Butscher  
Registration No. 48,326  
Attorney for Applicant